

109TH CONGRESS
1ST SESSION

H. R. 4463

To prohibit deceptive practices in Federal elections.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 2005

Mr. HOLT (for himself, Mr. LEWIS of Georgia, Mr. OWENS, Mr. HASTINGS of Florida, Ms. KILPATRICK of Michigan, Mr. GRIJALVA, Mr. BRADY of Pennsylvania, Mr. DEFazio, Mr. KENNEDY of Rhode Island, Ms. MOORE of Wisconsin, Mr. BROWN of Ohio, Ms. LEE, Ms. WOOLSEY, Mr. NADLER, Mr. SNYDER, Mr. MICHAUD, Mr. MCGOVERN, Ms. SCHAKOWSKY, Ms. JACKSON-LEE of Texas, Mr. SCOTT of Virginia, Ms. CARSON, and Mr. LANTOS) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prohibit deceptive practices in Federal elections.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Deceptive Practices
5 and Voter Intimidation Prevention Act of 2005”.

6 **SEC. 2. DECEPTIVE PRACTICES IN ELECTIONS.**

7 (a) CIVIL ACTION.—

1 (1) IN GENERAL.—Subsection (b) of section
2 2004 of the Revised Statutes (42 U.S.C. 1971(b)) is
3 amended—

4 (A) by striking “No person” and inserting
5 the following:

6 “(1) No person”; and

7 (B) by inserting at the end the following
8 new paragraph:

9 “(2) No person, whether acting under color of
10 law or otherwise, shall knowingly deceive any other
11 person regarding—

12 “(A) the time, place, or manner of con-
13 ducting a general, primary, run-off, or special
14 election for the office of President, Vice Presi-
15 dent, presidential elector, Member of the Sen-
16 ate, Member of the House of Representatives,
17 or Delegate or Resident Commissioner to the
18 Congress; or

19 “(B) the qualifications for or restrictions
20 on voter eligibility for any election described in
21 subparagraph (A).”.

22 (2) PRIVATE RIGHT OF ACTION.—

23 (A) IN GENERAL.—Subsection (c) of sec-
24 tion 2004 of the Revised Statutes (42 U.S.C.
25 1971(c)) is amended—

1 (i) by striking “Whenever any person”
2 and inserting the following:

3 “(1) Whenever any person”; and

4 (ii) by adding at the end the following
5 new paragraph:

6 “(2) Any person aggrieved by a violation of
7 subsection (b)(2) may institute a civil action or other
8 proper proceeding for preventive relief, including an
9 application in a United States district court for a
10 permanent or temporary injunction, restraining
11 order, or other order.”.

12 (B) CONFORMING AMENDMENTS.—

13 (i) Subsection (e) of section 2004 of
14 the Revised Statutes (42 U.S.C. 1971(e))
15 is amended by striking “subsection (c)”
16 and inserting “subsection (c)(1)”.

17 (ii) Subsection (g) of section 2004 of
18 the Revised Statutes (42 U.S.C. 1971(g))
19 is amended by striking “subsection (c)”
20 and inserting “subsection (c)(1)”.

21 (b) CRIMINAL PENALTY.—Section 594 of title 18,
22 United States Code, is amended—

23 (1) by striking “Whoever” and inserting the fol-
24 lowing:

25 “(a) INTIMIDATION.—Whoever”; and

1 (2) by adding at the end the following:

2 “(b) DECEPTIVE ACTS.—

3 “(1) PROHIBITION.—

4 “(A) IN GENERAL.—It shall be unlawful
5 for any person to knowingly deceive another
6 person regarding the time, place, or manner of
7 an election described in subparagraph (B), or
8 the qualifications for or restrictions on voter eli-
9 gibility for any such election, with the intent to
10 prevent such person from exercising the right to
11 vote in such election.

12 “(B) ELECTION.—An election described in
13 this subparagraph is any general, primary, run-
14 off, or special election for the office of Presi-
15 dent, Vice President, presidential elector, Mem-
16 ber of the Senate, Member of the House of
17 Representatives, or Delegate or Resident Com-
18 missioner to the Congress.

19 “(2) PENALTY.—Any person who violates para-
20 graph (1) shall be fined not more than \$100,000,
21 imprisoned not more than 1 year, or both.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the date of the enactment
24 of this Act.

1 **SEC. 3. REPORTING FALSE ELECTION INFORMATION.**

2 (a) IN GENERAL.—Any person may report to the As-
3 sistant Attorney General of the Civil Rights Division of
4 the Department of Justice, or the designee of such Assist-
5 ant Attorney General, any act of deception regarding—

6 (1) the time, place, or manner of conducting a
7 general, primary, run-off, or special election for Fed-
8 eral office; or

9 (2) the qualifications for or restrictions on voter
10 eligibility for any general, primary, run-off, or spe-
11 cial election for Federal office.

12 (b) CORRECTIVE ACTION.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), not later than 48 hours after receiving a
15 report under subsection (a), the Assistant Attorney
16 General shall investigate such report and, if the As-
17 sistant Attorney General determines that an act of
18 deception described in subsection (a) occurred,
19 shall—

20 (A) undertake all effective measures nec-
21 essary to provide correct information to voters
22 affected by the deception, and

23 (B) refer the matter to the appropriate
24 Federal and State authorities for criminal pros-
25 ecution.

1 (2) REPORTS WITHIN 72 HOURS OF AN ELEC-
2 TION.—If a report under subsection (a) is received
3 within 72 hours before the election described in such
4 subsection, the Assistant Attorney General shall im-
5 mediately investigate such report and, if the Assist-
6 ant Attorney General determines that an act of de-
7 ception described in subsection (a) occurred, shall
8 immediately undertake all effective measures nec-
9 essary to provide correct information to voters af-
10 fected by the deception and shall immediately refer
11 the matter to the appropriate Federal and State au-
12 thorities for criminal prosecution.

13 (3) REGULATIONS.—

14 (A) IN GENERAL.—The Attorney General
15 shall promulgate regulations regarding the
16 methods and means of corrective actions to be
17 taken under paragraphs (1) and (2). Such regu-
18 lations shall be developed in consultation with
19 the Election Assistance Commission, civil rights
20 organizations, voting rights groups, State elec-
21 tion officials, voter protection groups, and other
22 interested community organizations.

23 (B) STUDY.—

24 (i) IN GENERAL.—The Attorney Gen-
25 eral, in consultation with the Federal Com-

1 munications Commission and the Election
2 Assistance Commission, shall conduct a
3 study on the feasibility of providing the
4 corrective information under paragraphs
5 (1) and (2) through public service an-
6 nouncements, the emergency alert system,
7 or other forms of public broadcast.

8 (ii) REPORT.—Not later than 180
9 days after the date of the enactment of
10 this Act, the Attorney General shall submit
11 to Congress a report detailing the results
12 of the study conducted under clause (i).

13 (c) REPORTS TO CONGRESS.—

14 (1) IN GENERAL.—Not later than 90 days after
15 any primary, general, or run-off election for Federal
16 office, the Attorney General shall submit to the ap-
17 propriate committees of Congress a report compiling
18 and detailing any allegations of deceptive practices
19 submitted pursuant to subsection (a) and relating to
20 such election.

21 (2) CONTENTS.—

22 (A) IN GENERAL.—Each report submitted
23 under paragraph (1) shall include—

24 (i) detailed information on specific al-
25 legations of deceptive tactics;

1 (ii) any corrective actions taken in re-
2 sponse to such allegations;

3 (iii) the effectiveness of any such cor-
4 rective actions;

5 (iv) any suit instituted under section
6 2004(b)(2) of the Revised Statutes (42
7 U.S.C. 1971(b)(2)) in connection with such
8 allegations;

9 (v) statistical compilations of how
10 many allegations were made and of what
11 type;

12 (vi) the geographic locations of and
13 the populations affected by the alleged de-
14 ceptive information; and

15 (vii) the status of the investigations of
16 such allegations.

17 (B) EXCEPTION.—The Attorney General
18 may withhold any information that the Attorney
19 General determines would unduly interfere with
20 an on-going investigation.

21 (3) REPORT MADE PUBLIC.—The Attorney
22 General shall make the report required under para-
23 graph (1) publicly available through the Internet
24 and other appropriate means.

1 (d) FEDERAL OFFICE.—For purposes of this section,
2 the term “Federal office” means the office of President,
3 Vice President, presidential elector, Member of the Senate,
4 Member of the House of Representatives, or Delegate or
5 Resident Commissioner to the Congress.

6 (e) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated to the Attorney General
8 such sums as may be necessary to carry out this section.

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